

REMARKS

Claims 3, 5, 9, 12, 16, 36, and 37 are currently pending in the application. Applicants have canceled claims 4, 31, 32, 33, 34, 35, and 38-40. Applicants request reconsideration of the application in light of the following remarks.

Telephone Interview

Applicant's attorney wishes to thank the Examiner for his courtesy and time during a telephone interview that was held on September 30, 2004. The Examiner's comments and insight were very helpful in preparing this response. It is hoped that the comments below reflect the spirit of the interview.

Objection to the Drawings

The drawings have been objected to under 37 CFR 1.83(a) for failing to show the first edge portions are not longitudinally aligned with adjacent third edge portions as recited in claims 33. While Applicant does not agree with this conclusion, it has been determined to pursue any additional coverage beyond that which has been indicated as allowable in a continuing application. As such, Applicant has canceled claim 33. Applicant believes that every feature of the invention specified in the claims is now shown in the drawings and respectfully request that the Examiner withdraw the objection to the drawings.

Objections to Claims 3-5, 9-12, 16, 31, 38, and 40

The Examiner has objected to claims 3-5, 9-12, 16, 31, 38 and 40 for informalities. It appears that the Examiner's range from 9-12 was in error since claims 10-11 were previously canceled. Therefore, it is assumed that the Examiner intended to object to claims 9 and 12. In particular, the Examiner has objected to claims 3-5, 9, 12, 16, and 31 as not having a reference to a claim previously presented. Claims 4 and 31 have been canceled.

Therefore, the objection to claims 4 and 31 has been obviated. On the other hand, it appears that this objection is an attempt to either require that these claims depend from an earlier presented claim or from a claim designated by a smaller numerical value. There is no requirement to have a claim depend from an earlier filed claim since this would eliminate the practice of amending a base claim without amending each dependent claim. Such a requirement would be absurd. If, on the other hand, the Examiner's objection is because claims 3, 5, 9, 12, and 16 are dependent from claims designated by a higher number than themselves, then it is requested that the Examiner simply renumber the claims to comply with the requirement upon allowance. Claims 38 and 40 have been objected to for other informalities. However, both of these claims have been canceled. Therefore, the objection is now mute. Applicant respectfully requests that the objections to claims 3-5, 9, 12, 16, 31, 38 and 40 be withdrawn.

Indication of Condition for Allowance

Applicant wishes to thank the Examiner for the indication of condition for allowance for the above referenced application but for the few formal matters. Applicants believe that all formal matters have been resolved, that the application is in condition for allowance, and respectfully request the same.

Double Patenting Rejection

Claims 36, 3, 5, 37, 9, 12 and 16 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of US Patent No. 6,601,830 in view of Cochrane, British patent GB-2,337,279. In order to avoid further expenses and time delay, Applicants elect to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicants' filing of the terminal disclaimer should not be construed as acquiescence of the Examiner's double patenting or obviousness-

type double patenting rejections. Attached is the terminal disclaimer and accompanying fee.

Applicant submitted a terminal disclaimer on May 3, 2004 for a similar rejection. The terminal disclaimer was not accepted at that time because the person signing was not an attorney or agent of record. However, an associate power of attorney is included herewith. This associate power of attorney includes the undersigned as an agent of record. A copy of the previously filed terminal disclaimer is also included to meet the requirements and in order to overcome the double patenting rejection as set forth above. The fee of \$55.00 was submitted and accepted by the USPTO together with the response filed on May 3, 2004. Therefore, no additional fee should be required for filing this copy, which now complies with the requirements of the Examiner. However, if additional fee(s) are required, please charge our deposit account #19-0513.

Rejections under 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 31, 32, 34 and 35 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fibun (British Patent No. GB-2,039,683, hereinafter "Fibun").

Claims 31, 32, 34, and 35 have been canceled without traverse to obtain immediate allowance of the allowable subject matter. The rejection of claims 31, 32, 34, and 35 is, therefore, obviated.

Applicants respectfully request that the anticipation rejections of claims 31, 32, 34, and 35 be withdrawn.

Rejections under 35 U.S.C. §103

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicants' disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP §2143.

Claims

Claims 38-40 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fibun (British Patent No. GB-2,039,683, hereinafter "Fibun").

Claims 38-40 and 4 have been canceled without traverse to obtain immediate allowance of the allowable subject matter. The rejection of claims 38-40 and 4 is, therefore, obviated.

Applicants respectfully request that the obviousness rejections of claims 38-40 and 4 be withdrawn.

Indication of Allowable Subject Matter

Rejected claims 4, 31, 32, 34, 35, and 38-40 have been canceled herein in favor of a continuation application which may pursue these claims further.

Confirmation of Allowed Claims

Applicants wish to thank the Examiner for his confirmation of the patentable subject matter of claims 3, 5, 9, 12, 16, 36, and 37.

Regarding Doctrine of Equivalents

Applicants hereby declare that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.


CONCLUSION

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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